

REMARKS

This is a full and timely response to the outstanding non-final Office action mailed October 15, 2003. Consideration and allowance of the presently pending newly added claims 26-28 is respectfully requested.

I. Present Status of Patent Application

Through this response, claims 1-25 are canceled without prejudice, waiver, or disclaimer. Applicant reserves the right to pursue the subject matter of these canceled claims in a continuing application, if Applicant so chooses, and does not intend to dedicate any of the canceled subject matter to the public. Newly added claims 26-28 are pending in the case. It is believed that the foregoing amendments and additions present no new matter to the instant application.

II. Response to Objections - Specification

The disclosure is objected to due to blurred missing text on page 8 in the application as filed. Office action at p. 2. Applicant respectfully submits herewith in bold the text missing in the blurred section of page 8:

...It is preferable that the leg **member latch 33 can be operated with one hand of a user.**

The grill 10, in a preferred embodiment, is fueled by gas, such as propane. Common propane tanks on the market today come in various sizes, of which the grill 10 is capable of accommodating, as illustrated in FIG. 2. In one configuration, the heat source of the grill 10 (illustrated in FIG. 8 and discussed in detail hereafter) can be fueled by a fuel source 46, such as a 1-pound LP tank. ...

It is believed that the missing text and blurred line is a result of a printer error.

III. Response to Rejections

A. Claim Rejections – 35 U.S.C. §102

“Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. §102(b).

1. Statement of the Rejection – Claim 24

Claim 24 is rejected under 35 U.S.C. § 102(b) as being anticipated by Haffcke (U.S. Patent No. 541,534). Office action at p. 3. More particularly, the Office action states:

Haffcke discloses a portable grill apparatus comprising: an enclosure means (A,G) for enclosing a defined space (A') therein; a heating means for heating (B) the defined space with the enclosure means, the heating means being disposed within the enclosure means; a base means (A4) arranged and configured to receive and support the enclosure means thereon; the heating means comprising: a burner means (B) for burning a fuel; a fuel receiving means (not referenced) for delivering fuel from a fuel supply to the burner means, the fuel receiving means being connected to the burner means; and a cooking surface (D',d4) with a drain (D,d',d3) disposed above the heating means and having an angular disposition relative to the enclosure means for directing liquid matter from foods cooked on the grill apparatus to a drain (d3). The drain empties into a grease trap (E).

Office action at pp. 3-4.

a. The Haffcke Reference

Haffcke teaches an apparatus for cooking and broiling adapted to be used with a combined air and gas burner. Haffcke at lines 8-12. The apparatus includes a frame-work or casing mounted on legs or support and having a burner (B) and a grate (C) disposed inside the casing. Haffcke at lines 44-67.

b. Applicant's Claim 24

Claim 24 has been canceled, therefore Applicant respectfully submits that the rejection is moot and should be withdrawn.

c. Applicant's New Claim 26

The cited reference does not anticipate Applicant's newly added claim 26. Applicant claims a portable grill apparatus. More specifically, as provided in newly added claim 26, Applicant claims:

26. A portable grill apparatus comprising:
a grill having a hood and a firebox;
a burner assembly being disposed in said grill, said burner assembly being capable of heating an interior portion of said grill;
a frame being arranged and configured to substantially correspond to said grill and to receive and support said grill;
an *adjustable leg assembly* extending from said frame;
a *side shelf having a substantially planar surface and extending outwardly from said firebox*; and
a *fuel aperture disposed in said side shelf*, said fuel aperture being arranged and configured to provide access to a fuel source.

Claim 26, as newly added (*emphasis added*).

Applicant claims a portable grill apparatus having (1) *adjustable leg assembly*; (2) *a side shelf*; and (3) *a fuel aperture disposed in the side shelf*.

Haffcke fails to disclose adjustable legs or adjustable supports for the frame-work or casing or a side shelf. It is clear that without disclosure of a side shelf that an aperture disposed therein is not disclosed by the Haffcke reference either.

Due to at least these shortcomings of the Haffcke reference, Applicant respectfully submits that Haffcke does not anticipate independent newly added claim 26 and that claim 26 is in condition for allowance. In addition, in that dependent claims 27 and 28 depend from claim

26 and therefore include all the limitations contained therein and are allowable, Applicant respectfully requests allowance of these dependent claims.

B. Claim Rejections – 35 U.S.C. §103 (a)

It is well established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. See, e.g., In re Dow Chemical, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); In re Keller, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

1. Statement of the Rejection – Claims 1-8, 12, 14, 15, 22, 23

Claims 1-8, 12, 14, 15, 22 and 23 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Hahn (U.S. Patent No. RE 32,754) in view of Elliott (U.S. Patent No. 5,065,734). Office action at p. 4. More specifically, the rejection states:

Hahn (U.S. Patent No.- Re. 32,754) discloses a portable grill apparatus comprising: a grill having a hinged hood (32) and a firebox (30) having at least one cooking surface (40) thereon; a burner (34) assembly being disposed in the grill, the burner assembly being capable of heating an interior portion of the grill; and an pivotal adjustable leg assembly (84) extending from the firebox. The Hahn hoof is hingedly connected to the firebox such that the hood pivots about the hinged connection when the hood is removed from the firebox. Hahn however does not show or disclose the pivotal adjustable legs connecting a frame being arranged and configured to substantially correspond to the grill and to receive and support the grill and which releasably engages and support the grill, by way of fasteners.

Elliott teaches, form the same portable cooking grill field of endeavor as Hahn, pivotal adjustable legs (31) connected to a frame (32,38) being arranged and configured to substantially correspond to a grill (11) and to receive and support the grill and which releasably engages and support the grill, by way of fasteners (13).

In regard to claims 1-8,12,14,15,22 and 23, for the same purpose of providing a suitable alternative transportable stand structure for the portable grill, it would have been obvious to a person having ordinary skill in the art to modify the legs of Hahn to be pivotally connected to a frame being arranged and

configured to substantially correspond to a grill and to receive and support the grill and which releasably engages and support the grill, by way of fasteners, in view of the teaching of a Elliott. In regard to claim 7, Official Notice is taken that it is well known, in general, to use locking latches to releasably fasten, during transport, lids to containers (e.g. - hinged tool box lids), and it is well known to use locking latches to secure grill hoods to fireboxes. Thus, in view of that which is well known, it would have been obvious to a person having ordinary skill in the art to provide Hahn with a locking latch disposed on the grill and releasably fastening the hood and the fireboxes together. Also, in regard to claim 14, Official Notice is taken that it is well known to provide grills with substantially planar support surfaces removably fixed to the firebox and extending outwardly from the grill. Therefore, in view of that which is well known, it would have been obvious to a person having ordinary skill in the art to modify the firebox of Hahn to include a removable side shelf. And, in regard to claim 23, Official Notice is taken that it is well known to provide cooking apparatus (e.g. - gas fired cooking ranges) automatic igniter being arranged and configured to ignite fuel in the gas burner when the automatic igniter is activated by a user. Therefore, in view of that which is well known, it would have been obvious to a person having ordinary skill in the art to modify the firebox of Hahn to include an automatic igniter. In addition, Official Notice is taken that it is well known to provide a level indicators on ground supported apparatus, for the purpose of establishing whether or not the apparatus is level to the ground. Therefore, in view of that which is well known, it would have been obvious to a person having ordinary skill in the art to modify the firebox of Hahn to include a level indicator to aide in determining the orientation of the grill relative to the ground. In regard to claim 22, Hahn alone discloses a gas burner arranged and configured to receive fuel for burning, the gas burner extending along a length of the grill and being disposed in the firebox; a fuel connector, the fuel connector (50) being in communication with the gas burner and extending outwardly from the grill, wherein the outwardly extending portion is arranged and configured to receive a fuel source; wherein the gas burner assembly is fully enclosed by the firebox and a cooking surface. In regard to claim 4, Official Notice is taken that it is well known to apply springs to hinges for the purpose of aiding in either opening or closing of a member. Therefore, in view of that which is well know, for the purpose of aiding a user in opening the grill cover, it would have been obvious to a person having ordinary skill in the art to apply a spring to the cover hinge in Hahn. Similarly, in regard to claim 6, Official Notice is taken that it is well known to use leveling block (e.g. - shims under table legs) for the purpose of correcting the spatial orientation of a given apparatus. Thus, in view of that which is well known, it would have been obvious to a person having ordinary skill in the art to place leveling blocks under the legs of Hahn to place the grill in a desired, level, orientation relative to a support surface.

Office action at pp. 6-7.

As acknowledged by the Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office (“USPTO”) has the burden under section 103 to establish a *prima facie* case of obviousness by showing some objective teaching in the prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. See In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir 1988). Accordingly, to make a *prima facie* case for obviousness, there must be some prior art teaching or established knowledge that would suggest to a person having ordinary skill in the pertinent art to fill the voids apparent in the applied reference. “It is never appropriate to rely solely on ‘common knowledge’ in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based.” MPEP 2144.03, citing In re Zurko, 258 F.3d 1379, 1385, 59 U.S.P.Q.2d 1693, 1697 (Fed. Cir. 2001) (holding an assessment of basic knowledge and common sense that is not based on any evidence in the record lacks substantial evidence support). It is respectfully asserted no such *prima facie* case has been made in the outstanding Office action.

In addition to Applicant’s contention that no such *prima facie* case has been made, as discussed above, Applicant respectfully traverses the Office action’s allegation that “it would have been obvious . . . to provide Hahn with a locking latch disposed on the grill and releasably fastening the hood and the fireboxes together.” Office action at p. 6. Applicant respectfully traverses the Office action’s allegation that “it would have been obvious . . . to modify the firebox of Hahn to include a removable side shelf.” Id. Applicant also respectfully traverses the Office action’s allegation that “it would have been obvious . . . to modify the firebox of Hahn to include an automatic igniter.” Id. Applicant further respectfully traverses the Office action’s allegation that “it would have been obvious . . . to modify the firebox of Hahn to include a level

indicator to aide in determining the orientation of the grill relative to the ground.” Id. Applicant respectfully traverses the Office action’s allegation that “it would have been obvious . . . to apply a spring to the cover hinge in Hahn.” Office action at p. 7. Applicant also respectfully traverses the Office action’s allegation that “it would have been obvious . . . to place leveling blocks under the legs of Hahn to place the grill in a desired, level, orientation relative to a support surface.” Id.

“Modification unwarranted by the disclosure of a reference is improper.” Carl Schenck A.G. v. Nortron Corp., 713 F.2d 782, 218 U.S.P.Q. 698, 702 (Fed. Cir. 1983). Indeed, the ability of a reference to be modified as suggested by an Examiner does not render that modification obvious without suggested desirability of that modification by the reference itself. In re Fritch, 972 F.2d 1260, 1266, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992); In re Gordon, 733 F.2d 900, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984).

a. Hahn Reference

The Hahn reference teaches a table top grill. The grill includes a removable fire grate configuration. Two sets of fire grate modules are provided along with a heating grate so that a dual purpose grill is obtained, wherein both a grilling operation and a pot or pan cooking operation can be conducted simultaneously. Hahn at Abstract.

b. Elliott Reference

The Elliott reference teaches a portable grill having a cooking rack disposed within a pan having a generally flattened bottom. The grill is disclosed for cooking outdoors or indoors on a stove or in an oven. The bottom pan can be placed on a foldable stand. Elliott at Abstract.

c. Applicant's Claims 1-8, 12, 14, 15, 22, 23

Claims 1-8, 12, 14, 15, 22, and 23 have been canceled, therefore Applicant respectfully submits that the rejection is moot and should be withdrawn.

d. Applicant's New Claim 26

Applicant's newly added claim 26 is not obvious in view of the cited references. As stated above, Applicant's new claim 26 claims a portable grill apparatus having "*a side shelf having a substantially planar surface*" and "*a fuel aperture disposed in [the] side shelf.*" Applicant's claim 26.

Both the Hahn and Elliott references fail to teach *a side shelf* or *a fuel aperture disposed in the side shelf*. Furthermore, the Hahn reference teaches an apparatus arranged and configured for placement on a table top. As such, an area on which to rest items, such as a side shelf, is not likely desirable.

At least because neither Hahn nor Elliott teach a limitation of a side shelf or a fuel aperture disposed therein, as in Applicant's claim 26, the combination of Hahn in view of Elliott does not render claim 26 obvious. In addition, in that dependent claims 27 and 28 depend from claim 26 and therefore include all the limitations contained therein and are allowable, Applicant respectfully requests allowance of these dependent claims.

2. Statement of the Rejection – Claims 9 – 13

Claims 9-13 are rejected under 35 U.S.C. §103 (a) as allegedly being unpatenable over Hahn in view of Elliott, as applied to claim 1, and further in view of Haffcke. Office action at p. 7. More specifically, the Office action states:

Hahn (U.S. Patent No.- Re. 32,754) discloses a portable grill apparatus comprising: a grill having a hinged hood (32) and a firebox (30) having at least one cooking surface (40) thereon; a burner (34) assembly being disposed in the grill, the burner assembly being capable of heating an interior portion of the grill;

and an pivotal adjustable leg assembly (84) extending from the firebox. The Hahn hoof is hingedly connected to the firebox such that the hood pivots about the hinged connection when the hood is removed from the firebox. Hahn however does not show or disclose the corrugated cooking surface having a low point, being angled relative to a first plane and including a grease drain hole.

Elliott teaches, form the same portable cooking grill field of endeavor as Hahn, pivotal adjustable legs (31) connected to a frame (32,38) being arranged and configured to substantially correspond to a grill (11) and to receive and support the grill and which releasably engages and support the grill, by way of fasteners (13).

Haffcke discloses a portable grill apparatus comprising: an enclosure means (A,G) for enclosing a defined space (A') therein; a heating means for heating (B) the defined space with the enclosure means, the heating means being disposed within the enclosure means; a base means (A4) arranged and configured to receive and support the enclosure means thereon; the heating means comprising: a burner means (B) for burning a fuel; a fuel receiving means (not referenced) for delivering fuel from a fuel supply to the burner means, the fuel receiving means being connected to the burner means; and a cooking surface (D',d4) with a drain (D,d',d3) disposed above the heating means and having an angular disposition relative to the enclosure means for directing liquid matter from foods cooked on the grill apparatus to a drain (d3). The drain empties into a grease trap (E). In regard to claim 9-13, for he purpose of directing grease drippings away from the heat source, it would have been obvious to a person having ordinary skill in the art to modify Hahn to include a corrugated cooking surface having a low point, being angled relative to a first plane and including a grease drain hole. In regard to claim 12, Official Notice is taken that it is well known to provide a level indicators on ground supported apparatus, for the purpose of establishing whether or not the apparatus is level to the ground. Therefore, in view of that which is well known, it would have been obvious to a person having ordinary skill in the art to modify the firebox of Hahn to include a level indicator to aide in determining the orientation of the grill relative to the ground.

Office action at pp. 7 – 9.

The USPTO has the burden under section 103 to establish a *prima facie* case of obviousness by showing some objective teaching in the prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. See In re Fine, 5 U.S.P.Q.2d at 1598. Accordingly, to make a *prima facie* case for obviousness, there must be some prior art teaching or established knowledge that would suggest

to a person having ordinary skill in the pertinent art to fill the voids apparent in the applied reference. “It is never appropriate to rely solely on ‘common knowledge’ in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based.” MPEP 2144.03, citing In re Zurko, 258 F.3d 1379, 1385, 59 U.S.P.Q.2d 1693, 1697 (Fed. Cir. 2001) (holding an assessment of basic knowledge and common sense that is not based on any evidence in the record lacks substantial evidence support). It is respectfully asserted no such *prima facie* case has been made in the outstanding Office action.

In addition to Applicant’s contention that no such *prima facie* case has been made, as discussed above, Applicant respectfully traverses the Office action’s allegation that “it would have been obvious . . . to modify Hahn to include a corrugated cooking surface having a low point, being angled relative to a first plane and including a grease drain hole.” Office action at p. 8. Applicant further respectfully traverses the Office action’s allegation that “it would have been obvious . . . to modify the firebox of Hahn to include a level indicator to aide in determining the orientation of the grill relative to the ground.” Office action at p. 9.

“Modification unwarranted by the disclosure of a reference is improper.” Carl Schenck A.G. v. Nortron Corp., 713 F.2d 782, 218 U.S.P.Q. 698, 702 (Fed. Cir. 1983). Indeed, the ability of a reference to be modified as suggested by an Examiner does not render that modification obvious without suggested desirability of that modification by the reference itself. In re Fritch, 972 F.2d 1260, 1266, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992); In re Gordon, 733 F.2d 900, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984).

a. Applicant’s Claims 9 – 13

Claims 9 – 13 have been canceled, therefore, Applicant respectfully submits that the rejection is moot and should be withdrawn.

b. Applicant's New Claim 26

Applicant's newly added claim 26 is not obvious in view of the cited references. As stated above, Applicant's new claim 26 claims "*a side shelf having a substantially planar surface*" and "*a fuel aperture disposed in [the] side shelf.*" Applicant's claim 26.

Hahn in view of Elliott, as discussed above, fails to teach these limitations. In that Haffcke also fails to disclose these limitations as addressed previously, Applicant respectfully submits that Applicant's claim 26 is not obvious in light of the combination of Hahn in view of Elliott and further in view of Haffcke. In addition, in that dependent claims 27 and 28 depend from claim 26 and therefore include all the limitations contained therein and are allowable, Applicant respectfully requests allowance of these dependent claims.

3. Statement of the Rejection – Claims 16 - 21

Claims 16-21 are rejected under 35 U.S.C. §103 (a) as allegedly being unpatentable over Hahn in view of Elliott, as applied to claim 1, and further in view of Fautz (U.S. Patent No. 3,418,921). Office action at p. 9. More specifically, the Office action states:

Hahn (U.S. Patent No.- Re. 32,754) discloses a portable grill apparatus comprising: a grill having a hinged hood (32) and a firebox (30) having at least one cooking surface (40) thereon; a burner (34) assembly being disposed in the grill, the burner assembly being capable of heating an interior portion of the grill; and an pivotal adjustable leg assembly (84) extending from the firebox. The Hahn hood is hingedly connected to the firebox such that the hood pivots about the hinged connection when the hood is removed from the firebox. Hahn however does not show or disclose the corrugated cooking surface having a low point, being angled relative to a first plane and including a grease drain hole.

Elliott teaches, from the same portable cooking grill field of endeavor as Hahn, pivotal adjustable legs (31) connected to a frame (32,38) being arranged and configured to substantially correspond to a grill (11) and to receive and support the grill and which releasably engages and support the grill, by way of fasteners (13).

Fautz discloses a portable grill apparatus comprising: an enclosure means (11) for enclosing a defined space therein; an elongated burner heating means (24)

space with the enclosure means; a fuel receiving means (34,35) communicating with a venture supported on a venture wall support (14,32), and an angled cooking surface (17) with a drain hole (30). A heat shield (80) extends along and below the burner element. Heat shields (23,80) extend along and around the burner element.

In regard to claims 16-21, for the purpose of protecting the grill lower wall, for distributing and directing heat from the burner in a manner suitable for cooking, and to reduce flaring and smoke from grease drippings, it would have been obvious to a person having ordinary skill in the art to modify the burner of Hahn to include an elongated burner, a venture supported on a venture wall support and an angled cooking surface with a drain hole wherein heat shields extend along, below and around the burner element.

Office action at pp. 9 - 10.

The USPTO has the burden under section 103 to establish a *prima facie* case of obviousness by showing some objective teaching in the prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. See In re Fine, 5 U.S.P.Q.2d at 1598. Accordingly, to make a *prima facie* case for obviousness, there must be some prior art teaching or established knowledge that would suggest to a person having ordinary skill in the pertinent art to fill the voids apparent in the applied reference. "It is never appropriate to rely solely on 'common knowledge' in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based." MPEP 2144.03, citing In re Zurko, 258 F.3d 1379, 1385, 59 U.S.P.Q.2d 1693, 1697 (Fed. Cir. 2001) (holding an assessment of basic knowledge and common sense that is not based on any evidence in the record lacks substantial evidence support). It is respectfully asserted no such *prima facie* case has been made in the outstanding Office action.

In addition to Applicant's contention that no such *prima facie* case has been made, as discussed above, Applicant respectfully traverses the Office action's allegation that "it would have been obvious . . . to modify Hahn to include a corrugated cooking surface having a low

point, being angled relative to a first plane and including a grease drain hole.” Office action at p. 8. Applicant further respectfully traverses the Office action’s allegation that “it would have been obvious . . . to modify the burner of Hahn to include an elongated burner, a venture supported on a venture wall support and an angled cooking surface with a drain hole wherein heat shields extend along, below and around the burner element.” Office action at p. 10.

“Modification unwarranted by the disclosure of a reference is improper.” Carl Schenck A.G. v. Nortron Corp., 713 F.2d 782, 218 U.S.P.Q. 698, 702 (Fed. Cir. 1983). Indeed, the ability of a reference to be modified as suggested by an Examiner does not render that modification obvious without suggested desirability of that modification by the reference itself. In re Fritch, 972 F.2d 1260, 1266, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992); In re Gordon, 733 F.2d 900, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984).

a. The Fautz Reference

Fautz teaches a broiler having a grid of parallel bars with inclined channels for conducting grease to a main collecting channel. Fautz at Abstract. A supplementary collecting channel receives grease flowing along the bottom of the grid bars. Id. Radiants and burners are supported therebelow. Id.

b. Applicant’s Claims 16 - 21

Claims 16 – 21 have been canceled, therefore, Applicant respectfully submits that the rejection is moot and should be withdrawn.

c. Applicant’s New Claim 26

Applicant’s newly added claim 26 is not obvious in view of the cited references. As stated above, Applicant’s new claim 26 claims “*a side shelf having a substantially planar surface*” and “*a fuel aperture disposed in [the] side shelf.*” Applicant’s claim 26.

Hahn in view of Elliott, as discussed above, fails to teach these limitations. In that Fautz also fails to disclose these limitations, Applicant respectfully submits that Applicant's claim 26 is not obvious in light of the combination of Hahn in view of Elliott and further in view of Fautz. In addition, in that dependent claims 27 and 28 depend from claim 26 and therefore include all the limitations contained therein and are allowable, Applicant respectfully requests allowance of these dependent claims.

4. Statement of the Rejection – Claim 25

Claim 25 is rejected under 35 U.S.C. §103 (a) as allegedly being unpatentable over Haffcke in view of Lotter (U.S. Patent No. 3,098,477) and Strader et al. (U.S. Patent No. 5,799,645). Office action at p. 10. More specifically, the Office action states:

Haffcke discloses a portable grill apparatus comprising: an enclosure means (A,G) for enclosing a defined space (A') therein, a heating means for heating (B) the defined space with the enclosure means, the heating means being disposed within the enclosure means; a base means (A4) arranged and configured to receive and support the enclosure means thereon; the heating means comprising: a burner means (B) for burning a fuel; a fuel receiving means (not referenced) for delivering fuel from a fuel supply to the burner means, the fuel receiving means being connected to the burner means; and a cooking surface (D',d4) with a drain (D,d',d3) disposed above the heating means and having an angular disposition relative to the enclosure means for directing liquid matter from foods cooked on the grill apparatus to a drain (d3). The drain empties into a grease trap (E). Haffcke however does not show or disclose a cover and a fill level indicator, wherein the fill level indicator indicates an amount of liquid collected in the grease trap.

Lotter teaches, from the same grill apparatus field of endeavor as Haffcke, providing a grease trap (54) with a cover (56).

Strader et al teaches, from the same grill apparatus field of endeavor as Haffcke, providing a grease trap (42) with a fill level indicator (53).

In regard to claim 25, for the purpose of providing means to confine the grease within the trap, it would have been obvious to a person having ordinary skill in the art to place a cover thereon, in view of the teaching of Lotter. Also, for the purpose of providing means to indicate the level of grease collecting within the trap, it would have been obvious to a person having ordinary skill in

the art to further modify the trap of Haffcke to include a grease level indicator, in view of the teaching of Stader et al.

Office action at pp.11 – 12.

Applicant respectfully submits that Lotter is not a portable apparatus, while Haffcke does disclose a portable apparatus. As such, Applicant respectfully submits that there is no motivation to combine the references. ACS Hospital Systems, Inc., v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984) (“Obviousness cannot be established by combining the teachings of prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under Section 103, teachings of references can be combined only if there is some suggestion or incentive to do so.”)

a. The Lotter Reference

Lotter teaches a broiler for broiling meat. Col. 1, lines 9-10. The disclosed boiler is a double-deck broiler having a grease drainage system. Col. 2, lines 42-43.

b. The Strader Reference

Strader teaches methods and apparatus for cleaning grill range units and for removing grease and other accumulated articles blocking grease-carrying conduits in the grease collection system. Strader at Abstract. A method includes inserting a long semi-rigid but flexible drain cleaner having a length at least about equal to the length of, and a diameter smaller than the diameter of the grease conduit into the grease conduit. Id.

c. Applicant's Claim 25

Claim 25 has been canceled, therefore, Applicant respectfully submits that the rejection is moot and should be withdrawn.

d. Applicant's New Claim 26

Applicant's newly added claim 26 is not obvious in view of the cited references. As stated above, Applicant's new claim 26 claims "*a side shelf having a substantially planar surface*" and "*a fuel aperture disposed in [the] side shelf.*" Applicant's claim 26.

Haffcke, as discussed above, fails to teach a side shelf or a fuel aperture disposed therein. In that neither Lotter nor Strader teach a side shelf or a fuel aperture disposed therein, as in Applicant's claim 26, the combination of Haffcke in view of Lotter and Strader does not render claim 26 obvious. In addition, in that dependent claims 27 and 28 depend from claim 26 and therefore include all the limitations contained therein and are allowable, Applicant respectfully requests allowance of these dependent claims.

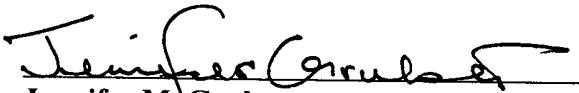
III. Allowable Subject Matter

Applicant greatly appreciates the Examiner's statement in the Office action in which claim 15 is indicated to be allowable if rewritten in independent form including all of the limitation of the base claim and any intervening claims. Office action at p. 12.

IV. Conclusion

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the new pending claims 26-28 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephone conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,


Jennifer M. Gruber
Registration No. 42,601

**THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.**
100 Galleria Parkway N.W.
Suite 1750
Atlanta, Georgia 30339
(770) 933-9500

00106585